

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

1			
2			
3			
4			
5	UNITED STATES OF AMERICA,)	
6)	No. CR-07-055-JLQ
7	Plaintiff,)	
8	vs.)	MEMORANDUM OPINION AND
9	DANIEL WHEAT,)	ORDER DENYING MOTION
10)	FOR APPOINTMENT OF
	Defendant.)	COUNSEL AND REDUCTION
)	OF SENTENCE

Before the court are the Defendant's Motion For Appointment of Counsel (C.R. 64 & 68) and his Motion For Reduction of Sentence (C.R. 63). For the reasons stated herein, the foregoing motions and any other pending and unresolved motions must be and are **DENIED**.

The Defendant pled guilty to two counts of distributing 5 grams or more of crack cocaine. The statutory range of sentence on each count was not less than ten years of imprisonment and not more than life. The sentencing Offense Level for this Defendant was determined based upon his being found to be a Career Offender pursuant to § 4B1.1 of the United States Sentencing Guidelines (U.S.S.G.). That section set the Defendant's Offense Level at a 37 and his Criminal History at Category VI. With credit for acceptance of responsibility and timely entry of a plea of guilty, the final sentencing Offense Level was a Level 34 and the sentencing Guideline Range was 262-327 months. The court exercised its discretion and imposed a sentence of 151 months.

The Defendant's sentencing Guideline range was not based upon the fact that his offense involved the distribution of crack cocaine and therefore Amendment 706 to the U.S.S.G. did not implicate this Defendant's sentence. His sentencing Guideline Range

1 was based upon his being a Career Offender. His sentencing Guideline range remained
2 the same after the effective date of Amendment 706. See also U.S.S.G. 1B1.10.

3 For these reasons, the Defendant's Motion For Reduction of Sentence and related
4 motions are **DENIED**.

5 The Clerk shall enter this Order and furnish copies to counsel and to the
6 Defendant.

7 Dated this 12th day of December, 2008.

8 s/ Justin L. Quackenbush
9 JUSTIN L. QUACKENBUSH
10 SENIOR UNITED STATES DISTRICT JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28